

EXHIBIT 5

In the Matter Of:

In Re: Pork Antitrust Litigation

STEVE SIZEMORE

May 19, 2022



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Civil Action No. 0:18-cv-01776-JRT-HB

IN RE:

PORK ANTITRUST LITIGATION,

_____ /

DEPOSITION OF
STEVE SIZEMORE

Thursday, May 19, 2022
9:03 a.m. - 1:33 p.m.

Remote Location
Via Zoom Videoconference
All Parties Remote

Stenographically Reported By:
Erica Field, FPR

10

1 A. Bachelor degree.

2 Q. And what was your degree in?

3 A. Business.

4 Q. From what university?

5 (Reporter clarification.)

6 Q. Can you repeat that?

7 A. Ma'am?

8 Q. Can you repeat the name of the
9 university?

10 A. Delta State.

11 Q. Great, thank you.

12 What year did you graduate?

13 A. In 1987.

14 Q. Since graduating from college,
15 have you obtained any professional
16 certifications or licenses?

17 A. No, ma'am.

18 Q. All right. I want to turn to your
19 business, Longhorn Steakhouse.

20 First, what kind of restaurant is
21 Longhorn's?

22 A. Steakhouse.

23 Q. And how many locations?

24 A. One.

25 Q. Is it a family-owned restaurant?

1 A. Yes, ma'am.

2 Q. Is it owned by you?

3 A. Yes, ma'am.

4 Q. Anyone else co-own?

5 A. No, ma'am.

6 Q. When did you open the restaurant?

7 A. 1995.

8 Q. And how big is the restaurant?

9 How many diners can you seat at a time?

10 A. 100 to 120.

11 Q. Has it been the same size since
12 you opened or have you moved?

13 A. No, ma'am, it was a little
14 smaller.

15 Q. But same building?

16 A. Yes -- no, ma'am. It was the same
17 building until 2008, then when we rebuilt.
18 So a little bit bigger building.

19 Q. Okay. In 2008 is when you moved?

20 A. When we had that propane tank with
21 the gas company. It's when the fire happened
22 and we lost everything. We built back.

23 Q. The fire happened in what year?

24 A. '08.

25 Q. Okay. And at that point you built

1 a new --

2 A. Yes, ma'am.

3 Q. So how long was the restaurant
4 closed because of the fire?

5 A. About five years.

6 Q. Okay. So you closed when in 2008?

7 A. May.

8 Q. May 2008.

9 And when did you reopen, what
10 month?

11 A. In 2013. But I mean, I kept doing
12 caterings and everything during that time.

13 Q. What month in 2013 did you reopen?

14 A. October or November.

15 Q. Okay. And then you said during
16 the period that you were closed, from
17 May 2008 to October or November 2013, you
18 weren't serving customers at a restaurant,
19 but you were still doing business in
20 catering?

21 A. Yes, ma'am.

22 Q. So can you describe that catering
23 business for me?

24 A. This -- you know, I would go to
25 wherever they needed me to go and serve at

1 different places, country clubs, buildings.

2 Yeah, if people had buildings somewhere, I'd
3 go set up and serve there.

4 I actually went to one country
5 club over in another town and cooked for them
6 about once a month. They hired me to do
7 that.

8 Q. And had you done catering prior to
9 the fire or you just started doing it after?

10 A. No, ma'am. I've done it ever
11 since I've opened.

12 Q. Okay. So the business was -- of
13 Longhorn Steakhouse was always partially the
14 restaurant and then partially catering?

15 A. Yes, ma'am.

16 Q. And the catering services were
17 also performed under Longhorn Steakhouse?

18 A. Yes.

19 Q. Okay. Thank you.

20 A. Yes.

21 Q. So what kind of food did you serve
22 during the time that the restaurant was
23 closed and you were solely doing catering?

24 A. Well, we did a lot of barbecues,
25 and then we would do steak dinners or prime

1 that correct?

2 A. Yes.

3 Q. So when you say that you observed
4 prices increasing for pork back in 2012 or
5 '13, during that time, were you observing a
6 similar increase in the prices of other
7 proteins, such as beef, turkey, chicken,
8 seafood?

9 A. No.

10 Q. During the time that you observed
11 that increase in pork prices, who did you
12 discuss that with?

13 A. Salesmen.

14 Q. The salesmen who were selling you
15 pork?

16 A. Yes.

17 Q. From what companies?

18 A. Wood Fruitticher, US Foods,
19 Merchants Company.

20 Q. What did they tell you when you
21 complained about pork prices?

22 A. The main thing was that they were
23 not killing as many hogs as normal.

24 Q. And what was the reason for that?

25 A. They didn't give me a reason.

1 Q. Did you have any understanding at
2 the time of what the reason was?

3 A. No. I was not told what the
4 reason was.

5 Q. So with each of those companies
6 that Longhorn's purchased pork from, you
7 listed Wood Fruitticher, US Foods, and who
8 was the other?

9 A. Merchants.

10 Q. And merchants.

11 Do you recall discussing pork
12 prices increasing with each of those
13 companies back in 2012 or 2013?

14 A. Wood Fruitticher would have been
15 the one mainly about that -- at that time.

16 Q. Wood Fruitticher.

17 Did you have that discussion via
18 e-mail?

19 A. No.

20 Q. How was the discussion carried
21 out?

22 A. Over the phone or in person.

23 Q. With who, what person?

24 A. My salesman.

25 Q. What was that salesman's name?

1 A. Frank Ballard.

2 Q. And you said to Frank Ballard that
3 you believed that pork prices were increasing
4 at a rate that surprised you?

5 A. Yes. Because I would ask him
6 about it.

7 Q. You asked him about the pork
8 prices?

9 A. Yes.

10 Q. Because they were higher than they
11 had been previously?

12 A. Yes.

13 Q. And what did the salesman say back
14 to you?

15 A. I mean, he -- all he could say was
16 that they weren't killing -- slaughter was
17 down.

18 Q. So how did you respond to that
19 increase in prices for pork?

20 A. I just had to deal with it. I had
21 to keep going.

22 Q. So did you purchase any less pork
23 than you otherwise would have?

24 A. Yes. Some of jobs --

25 Q. What -- sorry, can you finish?

1 MR. FINLEY: Objection. Calls
2 for speculation.

3 A. I don't know.

4 BY MS. STRANG:

5 Q. Do you think that your purchasing
6 methods as Longhorn's would be different from
7 a national or regional chain?

8 MR. FINLEY: Objection.
9 Speculation.

10 MS. RILEY: Object to the form.

11 A. I don't know.

12 BY MS. STRANG:

13 Q. Well, how do you purchase pork at
14 Longhorn's? What's your process?

15 A. I call my rep up and ask him
16 prices and get what I need. I order what I
17 need if the price is right.

18 Q. So you ask him prices. And he
19 just -- and he tells you the price?

20 A. Yep. He'll tell me what their
21 price is at the time.

22 Q. Where does he get that from?

23 A. From his company.

24 Q. Is there a price list?

25 A. Nah, it's an app on my phone. I

1 can go and just look at that.

2 Q. So it's like a menu you're looking
3 at, it tells you how much the price is for
4 whatever product you might be interested in
5 purchasing?

6 A. Yes, ma'am.

7 Q. And is that price negotiable?

8 A. No.

9 Q. So whatever the app says is the
10 price is what you pay?

11 A. On -- usually on pork it is, pork
12 and beef.

13 Q. So what about for other products,
14 how does it differ?

15 A. Some you might can get a better
16 price on.

17 Q. How would you go about getting a
18 better price?

19 A. I'd just call and ask.

20 Q. So if you think that the price
21 you're seeing on the app looks too high, you
22 call your sales rep and ask if they can give
23 you a better price?

24 A. Yes, ma'am.

25 Q. And how often does that work?

1 A. Maybe --

2 MS. RILEY: Object to the form.

3 You can answer.

4 A. Not very often.

5 BY MS. STRANG:

6 Q. And have you ever done that with
7 pork purchases?

8 A. I've tried and called, but I
9 just -- it is what it is on that.

10 Q. So your sales rep tells you the
11 price is the price?

12 A. Yes.

13 Q. Have you ever successfully
14 negotiated a discount for a pork product?

15 A. No.

16 Q. During the period from 2009 to
17 2018, you never did?

18 A. No, ma'am.

19 Q. And going back to the discussion
20 we were having before, do you believe that a
21 larger buyer of pork would have more success
22 than Longhorn's in negotiating the price of
23 pork?

24 MR. FINLEY: Objection. Calls
25 for speculation.